

**South Carolina General Assembly**  
118th Session, 2009-2010

**A68, R96, H3148**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Clyburn, G.M. Smith, H.B. Brown, Branham, Ott, Agnew, R.L. Brown, Hayes, Battle, Miller, Weeks, J.R. Smith, D.C. Smith, Parks, Rice, Littlejohn, Hosey, Jefferson, Cobb-Hunter, Howard, Cooper, Gunn, McLeod, T.R. Young, Kennedy, Vick, Edge, J.E. Smith, Harrell, A.D. Young, Alexander, Neilson, Lucas, Merrill, Barfield, Bales, Allen, Hodges, Knight and Funderburk

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Introduced in the House on January 13, 2009

Introduced in the Senate on April 14, 2009

Last Amended on May 21, 2009

Passed by the General Assembly on May 21, 2009

Became law without Governor's signature, June 3, 2009

Summary: Rural Infrastructure Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date	Body	Action Description with journal page number
12/16/2008	House	Prefiled
12/16/2008	House	Referred to Committee on <b>Ways and Means</b>
1/13/2009	House	Introduced and read first time <a href="#">HJ</a> -66
1/13/2009	House	Referred to Committee on <b>Ways and Means</b> <a href="#">HJ</a> -66
1/14/2009	House	Member(s) request name added as sponsor: McLeod, T.R.Young, Kennedy, Vick, Edge, J.E.Smith, Harrell, A.D.Young, Alexander, Neilson, Lucas, Merrill, Barfield, Bales, Allen
1/27/2009	House	Member(s) request name added as sponsor: Hodges
1/29/2009	House	Member(s) request name added as sponsor: Knight
3/31/2009	House	Committee report: Favorable with amendment <b>Ways and Means</b> <a href="#">HJ</a> -11
4/1/2009	House	Member(s) request name added as sponsor: Funderburk
4/1/2009	House	Amended <a href="#">HJ</a> -42
4/1/2009	House	Read second time <a href="#">HJ</a> -44
4/2/2009	House	Read third time and sent to Senate <a href="#">HJ</a> -12
4/14/2009	Senate	Introduced and read first time <a href="#">SJ</a> -15
4/14/2009	Senate	Referred to Committee on <b>Finance</b> <a href="#">SJ</a> -15
5/19/2009	Senate	Polled out of committee <b>Finance</b> <a href="#">SJ</a> -13
5/19/2009	Senate	Committee report: Favorable <b>Finance</b> <a href="#">SJ</a> -13
5/20/2009		Scrivener's error corrected
5/20/2009	Senate	Amended <a href="#">SJ</a> -66
5/20/2009	Senate	Read second time <a href="#">SJ</a> -66
5/21/2009	Senate	Amended <a href="#">SJ</a> -36
5/21/2009	Senate	Read third time and returned to House with amendments <a href="#">SJ</a> -36
5/21/2009		Scrivener's error corrected
5/21/2009	House	Concurred in Senate amendment and enrolled <a href="#">HJ</a> -122
5/21/2009	House	Roll call Yeas-99 Nays-6 <a href="#">HJ</a> -122
5/27/2009		Ratified R 96
6/3/2009		Became law without Governor's signature

6/22/2009  
6/22/2009

Effective date 06/03/09  
Act No. 68

## **VERSIONS OF THIS BILL**

[12/16/2008](#)

[3/31/2009](#)

[4/1/2009](#)

[5/19/2009](#)

[5/20/2009](#)

[5/20/2009-A](#)

[5/21/2009](#)

[5/21/2009-A](#)

(A68, R96, H3148)

**AN ACT TO ENACT THE “FEDERAL EDUCATIONAL TAX-CREDIT BOND IMPLEMENTATION ACT”, INCLUDING PROVISIONS TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-3-100 SO AS TO PROVIDE FOR THE MANNER IN WHICH AND CONDITIONS UNDER WHICH ALLOCATIONS OF QUALIFIED SCHOOL CONSTRUCTION BONDS AUTHORIZED BY THE PROVISIONS OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 SHALL BE MADE AMONG THE SCHOOL DISTRICTS OF THIS STATE, AND TO PROVIDE FOR OTHER RELATED MATTERS IN REGARD TO THESE ALLOCATIONS; TO AMEND SECTION 11-15-460, AS AMENDED, RELATING TO THE INTEREST RATE ON REFUNDING BOND OBLIGATIONS OF POLITICAL SUBDIVISIONS, SO AS TO EXEMPT QUALIFIED SCHOOL CONSTRUCTION BONDS FROM THIS PROVISION; AND TO AMEND SECTION 11-27-50, AS AMENDED, RELATING TO THE EFFECT OF THE PROVISIONS OF ARTICLE X OF THE CONSTITUTION OF THIS STATE ON BONDS OF SCHOOL DISTRICTS, SO AS TO PROVIDE THAT QUALIFIED SCHOOL CONSTRUCTION BONDS UP TO A CERTAIN AMOUNT MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH PRICE AS DETERMINED BY THE GOVERNING BODY OF THE ISSUER.**

Be it enacted by the General Assembly of the State of South Carolina:

#### **Citation**

SECTION 1. This act is known and may be cited as the “Federal Educational Tax-Credit Bond Implementation Act”.

#### **Findings**

SECTION 2. The General Assembly finds that:

(1) Owing to a devastating upheaval in world financial markets, the United States is experiencing restricted access to credit, closures of numerous business concerns, and high levels of unemployment across the nation. In response, the United States Congress has made provisions for a variety of strategies intended to stimulate economic activity in The American Recovery and Reinvestment Act of 2009

(ARRA). Among the strategies implemented by ARRA are various innovative financing programs for local governments.

(2) Traditionally, most financing undertaken by local governments is exempt from federal income tax. In order to stimulate local building activity and, further, to ameliorate the impact of a significant present weakness in the market for tax-exempt securities, ARRA, through a change in federal tax law, provides for the issuance by local school districts of a new type of obligation, the Qualified School Construction Bond (QSCB). It is the intent of Congress that QSCB obligations will be issued with an interest rate at or near to zero. In exchange for forgoing interest, the holder of a QSCB obligation will receive a credit against federal income tax intended to provide tax benefits equivalent to the forgone interest payments. The proceeds of QSCB obligations only may be used to defray the cost of the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which a facility is to be constructed.

(3) ARRA authorizes the issuance of eleven billion dollars of QSCB obligations in each of calendar years 2009 and 2010. Allocations will be made to the states in proportion to the respective numbers of children in each state who have attained age five but not age eighteen for the most recent fiscal year ending before the calendar year. South Carolina has been allotted one hundred and thirty one million dollars under ARRA in 2009 plus special allocations for large districts. Forty percent of the total national allocation amount is being allocated to one hundred large school districts and up to twenty-five additional school districts selected by the Secretary of the United States Department of Education. School districts of Charleston County and Greenville County are receiving direct allocations from the Secretary of the United States Department of Education.

(4) ARRA does not specify any method or criteria by which a state must allocate its share of QSCB issuance authority to its school districts. Accordingly, it is necessary for the General Assembly to direct the allocation of this issuance authority. The General Assembly has determined in this act to provide for the allocation of sixty percent of the State's QSCB issuance authority, not including the amount allocated to school districts of Greenville and Charleston Counties, to school districts having the lowest capital financing resources, measured in terms of assessed value per pupil, not to exceed a maximum of twenty million dollars per school district, and forty percent of the State's QSCB issuance authority to school districts having an ability to expeditiously issue bonds demonstrated through a high credit rating and timely start and completion of a project, not to exceed ten million dollars per school district. Any remaining QSCB allocations shall be

awarded on a pro rata basis to school districts that originally requested more than the maximum amount in a QSCB allocation. By allocating QSCB issuance authority to such school districts, a portion of the critical facilities needs of these districts may be addressed, subject to Article X, Section 15 of the South Carolina Constitution, 1895.

(5) Because the public market for tax-credit obligations is presently underdeveloped and may require several years or more to become a robust substitute for the tax-exempt market of prior years, it is also necessary to make appropriate provisions for the marketing of QSCB obligations.

## **Allocation**

SECTION 3. Chapter 3, Title 59 of the 1976 Code is amended by adding:

“Section 59-3-100. (A)(1) Issuance authority for Qualified School Construction Bonds (QSCB) obligations allotted to the State pursuant to the provisions of 26 U.S.C. Section 54F(d)(1) and any issuance authority allocated pursuant to 26 U.S.C. Section 54F(d)(2) to school districts of the State and not used by them shall be allocated by the State Superintendent of Education to one or more of the school districts, or county boards of education on behalf of one or more school districts of the State. In that regard, the State Superintendent of Education shall allocate sixty percent of the state’s QSCB issuance authority to or on behalf of school districts having the lowest capital financing resources, measured in terms of assessed value per pupil, not to exceed twenty million dollars per school district and forty percent of the state’s QSCB issuance authority to or on behalf of school districts having an ability to expeditiously issue bonds demonstrated through a high credit rating and timely start and completion of a project, not to exceed ten million dollars per school district. Any remaining QSCB allocations shall be awarded on a pro rata basis to school districts that originally requested more than the maximum amount in a QSCB allocation. School districts allocated issuance authority under 26 U.S.C. Section 54F(d)(2)(E)(i) are not eligible for allocation of issuance authority under this paragraph (A). When two or more school districts are proposing a joint construction rehabilitation of a qualified project, the priority level for the project must be based on the priority level of the joint partner having the lowest assessed value per pupil.

(2) The State may not issue a QSCB obligation. For purposes of Article X, Section 15, of the South Carolina Constitution, a QSCB obligation shall be considered general obligation debt. A school district

may not use the proceeds of a QSCB obligation for the purposes stated in Section 14003(b) of the American Recovery and Reinvestment Act of 2009.

(B) The State Superintendent of Education is authorized to establish for each allocation of issuance authority a schedule for issuance of QSCB obligations, giving due regard for the time required to initiate and hold bond referendums, and may reallocate issuance authority or any portion of issuance authority to another school district or county board of education if the schedule is not kept.

(C) Issuance authority allocated pursuant to this section but not utilized may be reallocated by the State Superintendent of Education in accordance with this section.

(D) Assessed value for purposes of this section means the assessed value of all taxable property, excluding property subject to a fee in lieu of tax. Each per pupil measurement is based upon the one hundred thirty-five day count for the most recently completed fiscal year.”

### **Exemption**

SECTION 4. Section 11-15-460 of the 1976 Code, as last amended by Act 34 of 1989, is further amended to read:

“Section 11-15-460. These refunding bonds must bear interest at those rates as may be determined by the governing body of the issuer. However, before the issuance of any refunding bonds, except in the case of the refunding of Qualified School Construction Bonds issued pursuant to the provisions of 26 U.S.C. Section 54F, the governing body shall determine that a savings can be effected through the issuance of these refunding bonds.”

### **Sale of bonds**

SECTION 5. Section 11-27-50 of the 1976 Code, as last amended by Act 113 of 1999, is further amended by adding an appropriately numbered item at the end to read:

“( ) Notwithstanding any other provision of law, bonds issued as Qualified School Construction Bonds in amounts not exceeding one and a half million dollars pursuant to the provisions of 26 U.S.C. Section 54F may be sold at public or private sale at the price determined by the governing body of the issuer.”

## **Powers additional**

SECTION 6. The powers and authorizations conferred by this act shall be in addition to all other powers and authorizations previously conferred upon the State Superintendent of Education, the State Department of Education, and the school districts of the State. The provisions of this act are remedial in nature and shall be liberally construed in order to give full force and effect to its provisions.

## **Severability**

SECTION 7. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

## **Time effective**

SECTION 8. This act takes effect upon approval by the Governor.

Ratified the 27<sup>th</sup> day of May, 2009.

Became law without the signature of the Governor -- 6/3/09.

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